

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

MARQUITA SANDERS, DONNA SANDERS,)	
LINDA TODD, individually and on)	11 C 3557
behalf of a class,)	
)	Magistrate Judge Rowland
Plaintiffs,)	
)	
)	
v.)	
)	
W&W WHOLESALE INC.,)	
)	
Defendant.)	

-----)	
NATIONAL SURETY CORPORATION; and)	
TRAVELERS CASUALTY INSURANCE)	
COMPANY OF AMERICA, PHOENIX)	
INSURANCE COMPANY, TRAVELERS)	
LLOYDS INSURANCE COMPANY AND)	
TRAVELERS INDRMNITY COMPANY OF)	
AMERICA,)	
)	
Intervenors/Third Party Plaintiffs,)	
)	
v.)	
)	
W&W WHOLESALE, INC., MARQUITA)	
SANDERS, DONNA SANDERS and)	
LINDA TODD)	
)	
Third Party Defendants.)	

**PLAINTIFFS' MOTION TO ENFORCE DEFENDANT'S COMPLIANCE WITH
THIS COURT'S PRELIMINARY APPROVAL ORDER**

NOW COME Plaintiffs Donna Sanders, Marquita Sanders and Linda Todd (collectively "Plaintiffs"), and move this Honorable Court to enter an Order on an expedited basis requiring Defendant W&W Wholesale, Inc., ("Defendant") to by 4:00 p.m., the day the Order is entered to send via next day delivery the requisite notice under

the Class Action Fairness Act of 2005, 28 U.S.C. §1715(b), and file the proof of service with the Court.

In support of this motion, Plaintiffs state as follows:

1. This Court's December 12, 2013 Preliminary Approval Order, which in pertinent part ordered, "Within ten (10) days of the entry of this Order, Defendant shall provide the requisite notice under the Class Action Fairness Act of 2005, 28 U.S.C. §1715(b), and thereafter file with the Court proof of compliance." (Doc. 291, p. 3 ¶ 6).

2. On December 30, 2013, Plaintiffs' counsel, Curtis C. Warner ("Plaintiffs' counsel") emailed Defendant's counsel, Thomas Zimmerman and Adam Tambureli the following:

If Defendant has provided the requisite notice under the Class Action Fairness Act of 2005, 28 U.S.C. § 1715(b) please immediately file a proof of service of such with the Court. If you have not, please advise us. If you do not promptly respond, I will assume that Defendant has not provided the requisite notice under the Class Action Fairness Act of 2005, 28 U.S.C. § 1715(b).

3. On December 31, 2013, at approximately 1:30 p.m., Plaintiffs' counsel, who had a hearing in state court across from Defendant's counsel's office, spoke personally with Adam Tambureli regarding whether the required CAFA notice had been sent. Mr. Tambureli stated that he did not know. Plaintiff's counsel emphasized with Mr. Tambureli that there are timing requirements and if those were not followed by Defendant the settlement could not be approved by the Court.

4. 28 U.S.C. § 1715(b) in pertinent part requires, "Not later than 10 days after a proposed settlement of a class action is filed in court, each defendant that is participating in the proposed settlement shall serve upon the appropriate State official of

each State in which a class member resides and the appropriate Federal official, a notice of the proposed settlement consisting of[.]”

5. 28 U.S.C. § 1715(d) provides, “**Final Approval.**— An order giving final approval of a proposed settlement may not be issued earlier than 90 days after the later of the dates on which the appropriate Federal official and the appropriate State official are served with the notice required under subsection (b).”

6. This Court has set April 3, 2014 as the Final Approval date. (Doc. 291, p. 6 ¶ 11).

7. Therefore, given 28 U.S.C. § 1715(d) and the April 3, 2014 final approval date, it is imperative that Defendant’s immediately comply with 28 U.S.C. § 1715(b) and file a proof of service with the Court.

WHEREFORE, Plaintiffs request this Court to enter an Order compelling W&W Wholesale to by 4:00 p.m., the day the Order is entered to send via next day delivery the requisite notice under the Class Action Fairness Act of 2005, 28 U.S.C. §1715(b), and file the proof of service with the Court.

Respectfully submitted,

By: /s/ Curtis C. Warner
Curtis C. Warner

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